



State Procurement Manual

Department of Administration, State Bureau of Procurement

Number
PRO-504

Section EXCEPTIONS, WAIVERS AND SPECIAL HANDLING	Effective DATE	Replaces PRO-C-32 9-21-10
Title GRANTS AND OTHER NON-PROCUREMENT TRANSACTIONS		Page 1 of 4

SCOPE: The scope of this policy is to define authority and procedure for transactions that may not allow for use of competitive processes i.e. grants, payments made pursuant to statute, utility payments and agreements between certain governmental bodies.

POLICY: The following payments and agreements are considered non-procurement transactions, subject to limited approval and oversight from the State Bureau of Procurement (Bureau). State agencies are responsible for establishing appropriate internal procedures for handling non-procurement transactions.

Grants and Payments Made Pursuant to Statute

The transfer of things of value to a recipient to carry out a public purpose of support or stimulation authorized by law (i.e. grant) or payments made pursuant to statute are not purchases and therefore are not subject to procurement rules and procedures. Agencies must obtain approval from the Bureau to exempt such payments as prescribed herein.

Utilities

When utility services are determined to be available only from a sole source as a result of a regulated or natural monopoly, these services may be obtained without bidding and such payments do not require the approval of the Bureau. Agencies are advised that most telecommunications, network or internet services can be competitively bid or are covered by existing mandatory statewide contracts and are not considered utilities.

Interagency Payments

Interagency agreements or acquisitions of property or services between Wisconsin state agencies are not purchases and do not require approval from the Bureau. This does *not* include a purchase from another agency's contract with a third party. See PRO-502, Collaborative Contracting: Piggybacking and the Use of Contracts with Other Authorities.



Legal Authority

Wis. Stats. 16.70; 16.705; 16.71; 16.72; 16.73; 16.75(2)(b)

Agencies Affected: All, unless otherwise noted

Authorized:

Sara Redford, Director
State Bureau of Procurement



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Title GRANTS AND OTHER NON-PROCUREMENT TRANSACTIONS		Page 2 of 4

Intergovernmental Transactions

State agencies may purchase supplies, materials, equipment, or contractual services other than printing and stationery, *directly* from the federal government. These arrangements are considered intergovernmental, non-procurement transactions and do not require approval from the Bureau.

Exclusions and Other Considerations

These options do not waive the need to meet certain procedures related to the purchase of contractual services, where applicable. See PRO-204, Contractual Services Procurement.

Agencies will ensure vendors are not on ineligibility listings. See PRO-401, Basic Contract Eligibility.

Agreements will include state standard terms and conditions as applicable. See PRO-404, Standard Terms and Conditions.

These options do not apply to the purchase of vehicles, legal services, general waivers, non-competitive negotiation, or emergency procurements. See PRO-210, Request for Purchasing Authority (RPA) Policy and Procedure.

These transactions do not require a public or legal notice unless the requesting agency is leading a competitive grant solicitation. See PRO-601, Legal/Public Notice.

Certain other goods and services are eligible for direct charging and do not require a purchase order under certain circumstances. See PRO-408, Purchase Requisitions, Orders and Methods of Payment.

PROCEDURE: I. Grants and Payments Made Pursuant to Statute



Legal Authority

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Section	Effective	Replaces
EXCEPTIONS, WAIVERS AND SPECIAL HANDLING	DATE	PRO-C-32 9-21-10
Title	Page	
GRANTS AND OTHER NON-PROCUREMENT TRANSACTIONS	3 of 4	

The process for exempting grants and payments made pursuant to statute from procurement rules and procedure is as follows:

- A. When first applying for a grant, if the agency intends to name the recipients of the funding, the agency must select those recipients through a competitive process.
- B. The agency must follow a transparent, fair and equitable selection process for choosing recipients regardless of whether or not the agency is using grant funds.
- C. Any agency that wants to exempt a grant program or a payment made pursuant to statute from the procurement rules and procedures must prepare a letter to the Bureau Director in accordance with DOA-3048: Checklist for a Request for Exemption of a Grant or a Payment Made Pursuant to Statute. The completed checklist will accompany the letter.
- D. The agency head or his/her designee and the agency purchasing officer who is the special designated agent under s. 16.71(1), Wis. Stats., will both sign the letter certifying that the programs identified do not in their judgment constitute purchases.
- E. Upon receipt of the letter, the Bureau will review the programs identified to determine the appropriateness of exempting them from procurement rules and procedures.
- F. All programs that are appropriately exempted from the procurement rules and procedures will be certified back to the state agency by the Bureau director. The Bureau and the state



Legal Authority

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Title GRANTS AND OTHER NON-PROCUREMENT TRANSACTIONS		Page 4 of 4

agency will both keep these certification letters on file for future reference.

- G. Any new or modified programs can be exempted from the procurement rules and procedures by following the same process in the future as a need for exemption is identified by any state agency.
- H. An exemption remains in effect for the life of the program as long as funds are available. The exempt program certification has no expiration date and can be used by the agency indefinitely. There is no need for follow-up certification unless substantive changes are made to exempt programs, including changes in funding and eligible recipients. If there are substantive changes, the agency must prepare a letter to the Bureau director according to the procedures above. The agency will use the tracking number from the original exemption.

II. Utilities

- A. Agencies contracting for utility services will document the fact that no bidding was done, when such is the case, due to the existence of a regulated or a natural monopoly.

REFERENCE: DOA-3048: Checklist for a Request for Exemption of a Grant or a Payment Made Pursuant to Statute



Legal Authority

Wis. Stats. 16.70; 16.705; 16.71; 16.72; 16.73; 16.75(2)(b)

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